

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

THOMAS D. WALLER,)
)
Plaintiff,) NO. 3:07-0171
) JUDGE HAYNES
v.)
)
TRANSCOR AMERICA, LLC,)
OFFICER J. BENNETT, and OFFICER)
P. MARTINEZ,)
)
Defendants.)

ORDER

Before the Court is the Magistrate Judge's Report and Recommendation (Docket Entry No. 50) that the Plaintiff's motion for summary judgment (Docket Entry No. 34) be denied and the Defendant's motion for summary judgment (Docket Entry No. 43) be granted.

Plaintiff has filed objections to the Report and Recommendation (Docket Entry No. 54), contending, in sum: (1) that the Report and Recommendation does not describe parts of his extended travel route; (2) that his loss of property claim should not be dismissed for the presence of a state remedy; and (3) that the Defendant Transcor America, LLC, can be held liable for its employees' acts.

After a de novo review of the Report and Recommendation and the objections thereto, the Court **ADOPTS** the Report and Recommendation. From the Court's de novo review, Plaintiff's reference to his extended travel route does not alter correctness of the Report and Recommendation's legal conclusions on his Eighth Amendment claim. Second, the Supreme Court decisions and the Fifth and Sixth Circuit precedents cited in the Report are controlling on Plaintiff's property claim. Third, the Report correctly analyzes Plaintiff's lack of proof and

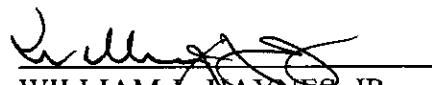
pleading on the Plaintiff's claims against the Defendant Transcor America, LLC.

Accordingly, the Plaintiff's motion for summary judgment is **DENIED** and the Defendant's motion for summary judgment is **GRANTED**. The Plaintiff's motion to change venue (Docket Entry No. 51) and Plaintiff's motion for subpoena (Docket Entry No. 52) are **DENIED** as moot. Any appeal of this Order would not be in good faith as required by 28 U.S.C. § 1915(a)(3).

This is the Final Order in this action.

It is so **ORDERED**.

ENTERED this the 11th day of October, 2007.


WILLIAM J. HAYNES, JR.
United States District Judge